

Message Text

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ACTION L-03

INFO OCT-01 AF-08 ISO-00 ST-01 MED-03 EB-07 /023 W

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FM AMEMBASSY BANGUI

TO SECSTATE WASHDC 7411

INFO AMEMBASSY LAGOS

UNCLAS BANGUI 1381

LAGOS FOR WACASC

E.O. 11652: N/A

TAGS: AFSOP, CT

SUBJECT: STEVER V. PAN AFRICAN AIRWAYS

REF: (A) STATE 171947; (B) BANGUI 1023

1. EMBASSY JULY 19 FORWARDED TEXT OF REF (A) TO ATTORNEY ONEGLIA. ON EVE OF HIS DEPARTURE FOR PARIS ON LEAVE HE HAS WRITTEN TO EMBASSY REITERATING HIS INTENTION TO WORK UP ANSWERS TO QUESTIONS POSED BY DEPARTMENT AND POINTING OUT LACK OF URGENCY. NEXT HEARING SCHEDULED FOR OCTOBER 23 AT WHICH TIME IN HIS VIEW CASE WILL BE FURTHER PUT OFF SINCE NONE OF THE PARTIES TO THIS DISPUTE HAVE AS YET EXCHANGED DOCUMENTS.

2. ONEGLIA HAS, HOWEVER, REACHED CERTAIN CONCLUSIONS ABOUT THE CASE. A) IT STEVER'S CLAIM WERE BASED ON THE FULFILLMENT OF THE TRANSPORTATION CONTRACT, THE WARSAW CONVENTION AND THE TWO YEARS STATUE OF LIMITATIONS WOULD APPLY. IN REALITY, THE TRANSPORTATION, STRICTLY SPEAKING, TOOK PLACE WITHOUT INCIDENT AND IT WAS FOR UNLOADING THE AIRCRAFT THAT STEVER REENTERED THE FREIGHT COMPARTMENT OF THE AIRCRAFT. THE ACCIDENT TOOK PLACE AS HE WAS COMING OUT. ONEGLIA SAYS IT HAS TO BE DETERMINED IF THE ACCIDENT WAS DUE TO THE VICTIM'S FAULT OR TO THE NEGLIGENCE OF THE CREW RESPONSIBLE FOR PUTTING UP THE STAIRS TO THE AIRCRAFT. B) BRINGING THE CASE BEFORE THE BANGUI COURT WOULD SEEM TO BE STEVER'S LAST RESORT AFTER HAVING BEEN CHECKED IN NIGERIA AND THE US. PAN AFRICAN
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IS REPRESENTED BY A VERY SENIOR PARIS LAW FIRM, WHO HAS

ALREADY DECIDED THROUGH THEIR LOCAL REPRESENTATIVE, ATTORNEY HIRSCH, TO QUESTION THE COMPETENCE OF THE LOCAL COURT. UNLIKE THE FRENCH CODE OF CIVIL PROCEDURE, CAR CODE OF PROCEDURE IS GOVERNED BY ARTICLE 16 OF A DECREE OF MAY 11, 1914 WHICH DOES NOT RECOGNIZE THE COMPETENCE OF A COURT IN PLACE WHERE AN ACCIDENT TAKES PLACE BUT ONLY THE COMPETENCE OF A COURT IN THE COUNTRY OF DOMICILE OF THE DEFENDENT, I.E. THE HEAD OFFICE OF PAN AFRICAN.

3. ONEGLIA ONCE AGAIN HAS ASKED FOR THREE VITAL DOCUMENTS:
A) TEXT AND, IF POSSIBLE, TRANSLATION OF CHARTER CONVENTION;
B) INFORMATION ON COMPENSATION ALREADY PAID TO STEVER BY USG,
AND C) THE ACCIDENT REPORT SUBMITTED TO THE DEPARTMENT OF STATE AT THE TIME. QUANTON

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